

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TYRONE COLE LACHAPPELLE,

Defendant-Appellant.

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UNPUBLISHED

July 28, 1998

No. 201814

Alpena Circuit Court

LC No. 96-004951 FH

Before: Bandstra, P.J., and Griffin and Young, Jr., JJ.

PER CURIAM.

Defendant appeals of right from his jury trial conviction for receiving and concealing stolen property over \$100, MCL 750.535; MSA 28.803. He was sentenced to thirty to sixty months' imprisonment. We affirm.

Defendant first argues that there was insufficient evidence to support his conviction. In reviewing the sufficiency of the evidence, this Court views the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the offense were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Defendant contends that there was insufficient proof to show that he possessed the stolen motor home. The element of possession may be proven by direct or circumstantial evidence, and the possession itself may be either actual or constructive. See *People v Hill*, 433 Mich 464, 469-470; 446 NW2d 140 (1989). Defendant was found alone in the locked motor home. He was asleep, wrapped in one of the vehicle's curtains. A coin purse containing the key to the side door of the vehicle was found nearby, as was a knapsack containing defendant's personal effects. The ignition wires were hanging down from behind the dashboard and offered defendant the ability to drive the vehicle elsewhere. A rational juror could therefore conclude that defendant had dominion or control over the motor home. There was sufficient evidence that defendant possessed the stolen vehicle.

Defendant also argues that the trial court erred by refusing to give a jury instruction on the lesser misdemeanor offense of entering without breaking, MCL 750.115; MSA 28.310. Claims of

instructional error are legal issues that are reviewed de novo. *People v Hubbard (After Remand)*, 217 Mich App 459, 487; 552 NW2d 493 (1996). A court must instruct on a requested lesser misdemeanor offense where “(1) there is a proper request, (2) there is an ‘inherent relationship’ between the greater and lesser offense, (3) the requested misdemeanor is supported by a ‘rational view’ of the evidence, (4) the defendant has adequate notice, and (5) no undue confusion or other injustice would result.” *People v Corbiere*, 220 Mich App 260, 262-263; 559 NW2d 666 (1996), citing *People v Stephens*, 416 Mich 252, 261-265; 330 NW2d 475 (1982). This Court held in *Corbiere*, *supra* at 263:

Offenses are inherently related if they relate to the protection of the same interests and are related in an evidentiary manner such that, generally, proof of the misdemeanor is necessarily presented in proving the greater offense. [Citations omitted.]

We conclude that the trial court properly refused to give the requested misdemeanor offense instruction because the second part of the *Stephens* test is not satisfied. The offense of possession of stolen property is directed at dissuading individuals from obtaining property they know to be stolen. The statute “discourages conduct violating the social norm concerning the theft of property.” *People v Ainsworth*, 197 Mich App 321, 326; 495 NW2d 177 (1992). On the other hand, the purpose of the breaking and entering statutes is to protect “the right of peaceful habitation.” See *People v Spivey*, 202 Mich App 719, 725; 509 NW2d 908 (1993). Moreover, given the disparity between the elements of each offense, it is not necessary to commit the lesser offense before committing the greater.

In sum, because the statutes are aimed at different harms, and because it is not necessary to commit the lesser offense before committing the greater, there was no “inherent relationship” between receiving and concealing stolen property and entering without breaking. Therefore, the trial court did not err by refusing to give the lesser misdemeanor instruction.

Affirmed.

/s/ Richard A. Bandstra  
/s/ Richard Allen Griffin  
/s/ Robert P. Young, Jr.